

**TOWN OF KENT
TOWN BOARD MEETING
Tuesday, April 4, 2017**

Executive Session – 6:00 p.m.

Discuss matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation and proposed, pending or current litigation

Workshop – 7:00 p.m.

1. Pledge of Allegiance
2. NYMIR Presentation – Kieran Boyle, Spain Agency
3. Recycling – additional building
4. Recreation and Parks - hiring seasonal Park Maintenance Workers and Start Smart Baseball Assistants, retaining wall at Edward Ryan Memorial Park
5. Lake Carmel Park District – hiring head lifeguard
6. Highway Department – auction or scrap Highway Truck #39
7. Planning and Zoning Board of Appeals attorney hiring
8. Sewer District – generator maintenance contract
9. Planning Board – acceptance of Erosion Control Bonds and inspection fees TM# 33.42-2-49, 50, 51 and 33.73-1-53, 54
10. Lakeview Community Church Tag Sale Permit
11. Announcements
12. Public Comment

Meeting

1. Roll Call
2. Vote on the following:
 - a) Contract with NYMIR
 - b) Hire seasonal Park Maintenance Workers
 - c) Hire Start Smart Baseball Assistants
 - d) Bid out construction of retaining wall at Edward Ryan Memorial Park
 - e) Hire head lifeguard for Lake Carmel Park District
 - f) Auction or scrap Highway Truck #39
 - g) Bid out generator maintenance contract
 - h) Accept Erosion Control Bond and inspection fee TM# 33.42-2-49,50,51
 - i) Accept Erosion Control Bond and inspection fee TM# 33.73-1-53, 54
 - j) Lakeview Community Church Tag Sale Permit
3. Vouchers and claims
4. Public comment



Town of Kent

Insurance Discussion: 3/21/17

Policy Period: 4/8/17 – 4/8/18

New York Municipal Insurance Reciprocal (NYMIR) Program – History/Highlights

- NYMIR originally started in 1993 with 26 founding Members in an effort to protect municipalities from the cycles and fiscal uncertainties of the traditional insurance marketplace. NYMIR is currently the largest Property & Casualty insurer of Municipalities in New York State with almost 900 Members (our reference list is enclosed). The Town of Kent has been a NYMIR Member since 1998.
- Endorsed by the Association of Towns, Association of Counties and Conference of Mayors. The NYMIR policies provide tailor made coverage forms and extensions specifically designed to protect Municipalities (below are a few of the coverage advantages):
 1. Land Use Liability (regulatory takings)
 2. Sudden & Accidental Pollution Liability
 3. Sexual Misconduct Coverage
 4. Personal Identity Theft (3rd party coverage)
 5. Replacement Cost Valuation for police vehicles & heavy trucks 10 years or newer
 6. Legal expenses for Public Officials & Law Enforcement Liability claims are not part of the deductible.
 7. Free property appraisals on all buildings valued over \$50,000 (next appraisal scheduled for 2017)
- Non-profit insurance company fully regulated by the NYS Insurance Department. Subject to tri-annual audits and same capitalization/surplus requirements as traditional markets. Financially sound with over \$56 million in surplus and an A- (Excellent) rating with A.M. Best. NYMIR's mission is to deliver superior coverages, claims handling, risk management services and stable pricing.
- Extensive Risk Management and Loss Control Services designed to help mitigate future possible claims and educate Members on risk prevention. They conduct quarterly risk management seminars as well as customized classroom training on various Municipal topics (i.e. Law Enforcement, Employment Practices, Playground Equipment, Risk Transfer, Workplace Violence, etc.).
- Specialized Claims Servicing and Defense of Claims. NYMIR employs and contracts with attorneys that have extensive legal backgrounds in dealing with municipal issues.

Current NYMIR Subscribers

The Spain Agency is the exclusive marketing and service representative for NYMIR in Westchester, Putnam and Dutchess Counties. NYMIR insures the following municipalities in our area:

<u>Westchester</u>	<u>Putnam</u>	<u>Dutchess</u>
Westchester County	Putnam County	Dutchess County
Town of Bedford	Town of Carmel	City of Beacon
Town of Lewisboro	Town of Kent	Town of Amenia
Town of Ossining	Town of Patterson	Town of Beekman
Town of Pound Ridge	Town of Putnam Valley	Town of Dover
Town of Rye	Town of Southeast	Town of East Fishkill
Rye Town Park Commission	Village of Cold Spring	Town of Fishkill
Town/Village of Mount Kisco		Town of Hyde Park
Village of Briarcliff Manor		Town of LaGrange
Village of Bronxville		Town of Red Hook
Village of Croton-on-Hudson		Town of Rhinebeck
Village of Irvington		Village of Fishkill
Village of Pleasantville		Village of Red Hook
Village of Port Chester		Village of Tivoli
Village of Rye Brook		Village of Millerton
Village of Sleepy Hollow		Town of Pine Plains
Town of Mamaroneck		Town of Pleasant Valley
Village of Tarrytown		Town of Washington
		Village of Millbrook
		Town of Clinton
		Town of Wappingers
		Village of Rhinebeck
		Town of Union Vale

Premium/Rating Comparison:

We are pleased to announce that even though some of the Town's exposures have increased since last year, your overall premiums are decreasing approximately 2% from the expiring policy term (premium comparison noted below). The 2017 rates account for the following factors:

- a. NYMIR has implemented an average flat rate change in 2017 for the entire program (subject to individual claims experience and exposure changes). Please keep in mind the prior 8 years of the NYMIR program produced an average rate decrease of approx. 3%
- b. The Town's general liability and public official's liability policies have experienced an increase in claims activity over the past year.
- c. Exposure changes since last year:
 - a. Property values increased 3%
 - b. Equipment values increased 2%
 - c. # vehicles increased 3%

Line of Business	Insurance Company	2016-2017	2017-2018
*Package	NYMIR	*\$294,839.60	*\$288,901.05
Boiler & Machinery	CNA	\$9,640.00	\$9,640.00
Crime	Selective	\$1,724.00	\$1,724.00
Sub-Total Premium:		\$306,203.66	\$300,265.05

***PACKAGE policy includes the following coverages:**

Property, General Liability, Employee Benefits Liability, Public Officials, Law Enforcement, Commercial Automobile, Inland Marine, OCP's and Umbrella.





Subject: Kent Recreation and Parks - Agenda Items

Date: Monday, April 3, 2017 at 12:09:47 PM Eastern Daylight Time

From: Lou Fernandez

To: Maureen Fleming

Supervisor Fleming,

I have 3 items for the upcoming agenda:

1. 2017 Part Time Maintenance Worker Positions
2. Start Smart Baseball Assistants
3. Edward Ryan Memorial Park Retaining Wall - Permission to Bid (attached to second email)

Lou Fernandez
Director of Recreation and Parks
25 Sybil's Crossing
Kent Lakes, NY 10512
845-531-2100

Louis M. Fernandez
Director of Recreation and Parks



Town of Kent Recreation and Parks Department
25 Sybil's Crossing Kent Lakes, NY 10512

Telephone: (845) 531-2100
Fax: (845) 225-5130

Email: recreation@townofkentny.gov
Webpage: www.townofkentny.gov

April 3, 2017

Kent Town Board
25 Sybil's Crossing
Kent Lakes, NY 10512

Subject: 2017 Start Smart Baseball Personnel

Dear Town Board Members,

Our Start Smart Baseball program is set to start on April 22. We advertised these positions and have received almost no interest from the community at large. We have a few individuals that have worked, volunteered and played through our program that are interested in these positions. Although we are in need of at least 1 additional assistant, at this point I am seeking approval for the applicants we do have.

I am asking that Kaylie Mallegol, Mary Ellen Kelly and Brian Mirchin be hired as Start Smart Assistants, at a \$140 rate for the program. Each of these young adults has either worked for us in the past (Kaylie and Mary Ellen) or have volunteered and participated (Brian) in our programs. Hopefully we will be able to find at least 1 more assistant before the start of the program.

Thank you for your assistance in this matter.

Sincerely,

Louis Fernandez
Director of Recreation and Parks

From: Maureen Fleming
Sent: Thursday, March 23, 2017 11:21 AM
To: Lcpd Clerk
Subject: FW: LCLG Paperwork- HEAD GUARD
Attachments: Re-Certification.pdf; BLS Provider Certification.pdf; Application.doc; Letter of Interest.docx

Can you please print these for me?

M

From: Heidi Link <lcpdclerk@townofkentny.gov>
Date: Thursday, March 23, 2017 at 8:58 AM
To: Maureen Fleming <m Fleming@townofkentny.gov>
Cc: Paul Denbaum <pdenbaum@townofkentny.gov>, Andrea McKinley <andreaemckinley@hotmail.com>, Jasmine Ramos <jramos@townofkentny.gov>
Subject: FW: LCLG Paperwork- HEAD GUARD

Teresa Savio would like to return as Head Lifeguard this year. Attached please find her application and letter of interest. Andrea has spoken with Paul regarding the hiring of Teresa as Head Guard and she would like to see Teresa's application added to the agenda for a decision by the town board April 4th.

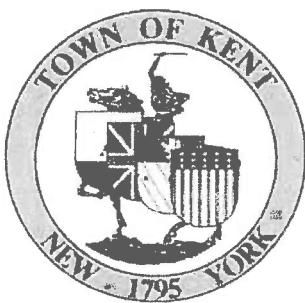
Her salary would be \$15.00/hr.

Regards,


Heidi Link
Town of Kent, NY
Lake Carmel Park District Clerk
25 Sybil's Crossing
Kent Lakes, NY 10512
Telephone: (845) 306-5602
Fax: (845) 225-5130
lcpdclerk@townofkentny.gov
www.townofkentny.gov/lcpd_home.htm

From: Andrea McKinley [<mailto:AndreaEMcKinley@hotmail.com>]
Sent: Monday, March 20, 2017 9:19 PM
To: Lcpd Clerk
Subject: Fw: LCLG Paperwork- HEAD GUARD

I am so excited to receive Teresa's paperwork. I spoke to Paul about Teresa's interest in coming back. Let me know if you need her to sign her application prior to moving forward and if not, let's move forward with getting Teresa on the next agenda. 😊



Town of Kent Highway Dept.
Richard T. Othmer, Jr., Highway Superintendent
62 Ludington Court
Kent Lakes, New York 10512
(845) 225-7172
Fax (845) 225-9464
E-mail: highwaykent@townofkentny.gov

6
RECEIVED

MAR 24 2017

Town of Kent
Supervisor's Office

March 24, 2017

Town of Kent Supervisor Maureen Fleming
Kent Town Board Members
25 Sybil's Crossing
Kent Lakes, NY 10512

Subject: Truck #39

Dear Supervisor Fleming and Kent Town Board Members,

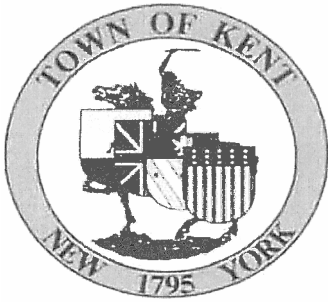
I am receipt of a letter from Nick Mancuso, Automotive Service Manager that Truck #39 a 1994 International Dump Truck which is twenty-three years old and has reached the end of it service life for the Town needs to be advertised on Auctions International for sale and/or scraped if not sold.

This truck will be replaced with a new truck which has been ordered and we are awaiting delivery.

Please do not hesitate to contact me with any questions.

Sincerely,

Richard T. Othmer, Jr.
Highway Superintendent



TOWN OF KENT MUNICIPAL REPAIRS

62 Ludington Court
Kent Lakes, New York 10512
(845) 225-6612
Fax (845) 225-9464
E-mail: municipalrepairs@townofkentny.gov
Nicholas Mancuso, Service Manager

March 23rd, 2017

Richard Othmer, Kent Highway Superintendent
62 Ludington Ct.
Kent Lakes, NY 10512

Subject: 1994 Dump Truck VIN# 1HTSEPCR2RH569415

Dear Richard,

I am advising that we remove truck #39 from our current fleet. It is 23 years old and the cost of the necessary repairs exceed the value of the vehicle. I strongly recommend that first we advertise it on Auctions International. If that does not prove successful the next step would be to scrap the truck.

Sincerely Nicholas Mancuso,

Municipal Repairs Service Manager





GENERAL MUNICIPAL LEGAL SERVICES

LEGAL SERVICE SPECIFICATIONS - PART 4

The Town is seeking Proposals from qualified Attorneys to provide legal services to the Town of Kent Town Planning Board and the Town of Kent Zoning Board of Appeals.

1. For those bidders wishing to submit a proposal to provide general municipal legal services under Legal Service Specifications - Part 4, the proposal should include a schedule of hourly rates for all personnel of the Attorney or firm for those legal services identified under Legal Service Specifications - Part 4.

A general description of services for Legal Service Specifications - Part 4 is provided below.

1. Planning Department. Provide legal support services to the Planning Department as requested, including but not limited to providing legal advisory opinions and interpretations of the Kent Town Code.
2. Planning Board Services. Provide legal support services to the Planning Board. The selected consulting Attorney will provide written legal opinions of and answer inquiries relating to site plans, subdivision plans, land improvement plans, land disturbance plans, and construction plans (collectively "development plans") for projects proposed by applicants to be developed in the Town of Kent.
 - 2.1. Meeting Attendance and Participation: The selected Attorney will be expected to attend Planning Board regular monthly meetings when requested to do so in advance, and other meetings as may be periodically requested, at which time the Attorney shall be prepared to respond to questions on matters before each of the Boards.
 - 2.2. Prepare, or assist in the preparation of easements, including but not limited to drainage easements, water easements and conservation easements.
 - 2.3. Oversee and assist in the formation of any deed transferring ownership of any parcels or lots to the Town of Kent, by means of fee-simple or as otherwise determined appropriate by the Town.
 - 2.4. Review title reports.
 - 2.5. Advise on the meaning and application of the Kent Town Code, or any State or federal laws.
 - 2.6. The consulting Attorney may be requested to meet with Town Hall personnel from time to time, or to assist Town personnel in meetings with developers and property owners to discuss proposed projects.
 - 2.7. The consulting Attorney may be requested to meet with developers and property owners from time to time to discuss proposed projects.
 - 2.8. The Attorney will be expected to review, as may be submitted each month plans, reports and other materials submitted to the Planning Board related to any legal issues in a timely manner, without unreasonable delays, identify additional information required from the applicant, and recommend courses of action, as required. Materials are typically submitted two weeks prior to the regular meeting.
 - 2.9. The Attorney will be expected to issue written legal opinions to the Town at the agreed upon time.
 - 2.10. Prepare, or assist in the preparation of resolutions as may be requested.

GENERAL MUNICIPAL LEGAL SERVICES

3. Zoning Board of Appeals. Provide legal support services to the Zoning Board of Appeals as requested, including but not limited to provide legal advisory opinions, and administrative issues, and interpretation of the Kent Town Code and related state and federal laws.
 - 3.1. Meeting Attendance and Participation: The selected Attorney will be expected to attend Zoning Board of Appeals regular monthly meetings when requested to do so in advance, and other meetings as may be periodically requested, at which time the Attorney shall be prepared to respond to questions on matters before the Zoning Board of Appeals.
 - 3.2 Prepare, or assist in the preparation of resolutions as may be requested.

GENERAL MUNICIPAL LEGAL SERVICES

SELECTION CRITERIA

The following criteria shall be used in evaluating the proposals submitted :

A. Selection Criteria

1. The Attorney/firm' s background (15 points)

- What is the length of time your practice/firm has been in business?
- What are the qualifications, education and experience of potential personnel servicing the account?
- How many partners, associates and clerical staff are available to service the account?
- What are the qualifications and experience of potential personnel that may be used to accomplish other tasks listed in this proposal?
- In what areas of law does the Attorney have knowledge and experience?
- Are these areas relevant to the needs of the Town of Kent?

2. Professional competence and qualifications of the Attorney (20 points)

- The bidder has documented that he/she fulfills all of the Minimum Qualifications of the RFP.
- The bidder has demonstrated a clear understanding of the scope of work and related objectives.
- Is the proposal complete and responsive to the specific requirements?
- Has successful past performance of the firm and its principals been documented?
- Does the firm document a record of reliability of timely delivery of deliverables?
- Does the firm document municipal/State experience?
- Does the firm document its availability to attend all scheduled/required public and special meetings?
- Has the bidder demonstrated the capability to provide professional legal services in a timely manner?
- Accessibility of Attorneys and staff for questions, emergencies, court appearances, etc.
- How have the references provided rated the Attorney? How was the performance rated in terms of quality of work and compliance with client's instructions?

3. Knowledge of relevant areas of Municipal Law (30 points) The Company's experience in municipal law;

- General experience in the practice of law (ie. years practicing);
- Prior relevant experience with municipal, county, state or federal law;
- Prior experience in representing a municipal government;
- Prior experience in representing a New York town government
- Specific detailed litigation experience
- Experience in the specific area of law;
 - ▶ Town Law
 - ▶ Vehicle & Traffic Law
 - ▶ SEQRA

GENERAL MUNICIPAL LEGAL SERVICES

- ▶ General Municipal Law
- ▶ Home Rule Law

4. Proximity of consulting Attorney's offices to the Town of Kent (5 points)

- ▶ 0-15 miles
- ▶ 16-45 miles
- ▶ Greater than 45 miles.

5. The firm's fee schedule. (30 points)

- Fee schedule (hourly rate) for the various disciplines with the firm.
- Lump sum fee proposed by the counsel.

VAN DeWATER AND VAN DeWATER, LLP

COUNSELORS AT LAW

John B. Van DeWater (1892-1968)
Robert B. Van DeWater (1921-1990)
James E. Nelson
Gerard J. Comatos, Jr.
Ronald C. Blass, Jr.
Kyle W. Barnett
Daniel F. Thomas III

Danielle E. Strauch
Erin L. O'Dea

85 CIVIC CENTER PLAZA, SUITE 101
P.O. BOX 112
POUGHKEEPSIE, NEW YORK 12601

(845) 452-5900
Fax (845) 452-5848

WEBSITE ADDRESS:
www.vandewaterlaw.com

GENERAL E-MAIL ADDRESS:
info@vandewaterlaw.com

Noel deCordova, Jr. (1929-2013)
Edward vK Cunningham, Jr.
John K. Gifford
Shari S.L. Hubner
Jeffrey S. Battistoni
Janis M. Gomez Anderson
Counsel

January 11, 2017

VIA UPS OVERNIGHT DELIVERY

Town of Kent Town Board
Maureen Fleming, Supervisor
Town Kent Town Hall
25 Sybil's Crossing
Kent Lakes, New York 10512

Re: Town of Kent RFP for Legal Services

Dear Town Board:

Please accept this letter as a response to Sections 5.0, 6.0, 7.0, and 8.0 of the Request for Proposals issued by the Town of Kent for legal services commencing during 2017.

Van DeWater & Van DeWater submits this proposal for Part 2, Part 3 and Part 4 of the Request for Proposal. In part, the law firm pursues the opportunity for continued representation of the Town of Kent Planning Board, Planning Department and Zoning Board of Appeals. In other part, the law firm presents its broad qualifications for municipal legal work encompassed within Part 2 and Part 3 of the Request for Proposal.

Van DeWater & Van DeWater has existed since 1914. Most of our attorneys regularly provide guidance to local municipalities and public officials, including town boards, planning boards, zoning boards of appeals, and municipal officers and employees.

Van DeWater & Van DeWater provides a full range of services to municipalities, including general counseling and advice concerning (a)land use issues, (c)litigation, (d)defense of tax review proceedings, (f)establishment and improvement of special improvement districts, (g)establishment of shared public sector - private sector undertakings for extension of municipal services, (h)municipal finance, (i)franchising of the public rights of way to utilities, (j)absorption of private water and sewer companies, (k)acquisition of easements by negotiation or by eminent domain, (l)legislative drafting, and (m)legal management of public works projects.

The contact person for the law firm is Ronald C. Blass, Jr., at the aforesaid address and phone.

SUBMISSION REGARDING PART 2 AND PART 4
OF THE REQUEST FOR PROPOSAL

In land use litigation matters, Van DeWater & Van DeWater fairly and efficiently balances the playing field for its municipal clients.

Our firm was a part of the legal team which handled the seminal SEQRA decision by the state's highest court in Merson v. McNally (90 N.Y.2d 742). There, the Court of Appeals identified rules for the proper scope of "impact mitigation negotiation" between a planning board and an applicant in order to develop, where possible, a sound project while being careful not to circumvent SEQRA procedures.

That case was nominated by a lead SEQRA commentator, in 2000, as one of the six most important SEQRA decisions of the prior decade. Attached is the New York Law Journal column where this observation was made.

Interestingly, Van DeWater & Van DeWater handled one of the other six most important SEQRA cases, WEOK Broadcasting Corp. v Planning Board of Lloyd (79 N.Y.2d 373), also noted in that column.

The firm was on the winning side in both significant land use decisions.

The firm has handled complex land use matters for the private sector as well, including the siting and SEQRA review of

the Frank Gehry designed Fisher Center for the Performing Arts at Bard College in Red Hook.

What distinguishes Van DeWater & Van DeWater is the longevity and continuity of the firm's representation of its municipal clients, for instance:

- (a) Town of LaGrange since the 1930's.
- (b) Town of Fishkill Planning Board since 2009.
- (c) Town of Washington since 1973.
- (d) Town of Poughkeepsie commencing in 1977
- (e) Town of Kent Planning Board since 2001.
- (f) Town of Marlborough Planning Board since 2001.
- (g) Town of Pleasant Valley Planning Board, for about 20 years.
- (h) Dutchess County Water and Wastewater Authority since 2005.

Van DeWater & Van DeWater has long continued to provide defense of tax review proceedings. Kyle W. Barnett manages this practice area, and his curriculum vitae, infra, sets forth a list of representative clients including the Town of Putnam Valley. In his practice, he was successful in obtaining a favorable jury verdict for the Town of Shandaken against civil rights claims of unequal and unfair assessment.

Mr. Barnett handles litigation matters generally, and his experience includes the area of tort defense, including the defense of 1983 civil rights action claims against municipalities. Mr. Blass also has experience in 1983 tort defense, including the dismissal on motion of claims against the Town of Marlborough.

The firm has deep experience in public infrastructure, including the establishment and improvement of special districts for several municipalities, infra. In that regard, the law firm has developed skills in the acquisition of utility easements and related takings, by eminent domain if necessary.

Van DeWater & Van DeWater offers the following attorneys to support representation of the Town of Kent agencies:

Ronald C. Blass, Jr., a partner in the firm, graduated cum laude from Lafayette College in 1973. He attended Albany Law School

of Union University where he was named to the Albany Law Review. Thereafter, Mr. Blass proceeded directly to a judicial clerkship from 1978 to 1980 with Joseph D. Quinn, Jr., a Justice of the Supreme Court of the State of New York. He joined Van DeWater & Van DeWater, LLP in 1980.

Mr. Blass has extensive litigation experience in state and federal courts, particularly in environmental, mining, zoning, municipal, commercial, and other civil disputes.

Mr. Blass currently services agencies of the Town of LaGrange, the Town of Marlborough and the Town of Kent Planning Board and Zoning Board of Appeals, and he provides representation to the private sector regarding land use matters. Mr. Blass has lectured for the Association of Towns on land development, zoning, environmental issues, mining regulation, and municipal infrastructure development.

Kyle W. Barnett, a partner in the firm, has more than 20 years of extensive trial experience. His focus is litigation with emphasis on real property tax challenges (tax certiorari), land use, criminal law, and 42 U.S.C. § 1983 actions.

In the area of tax certiorari Mr. Barnett has experience with just about every type of property available. A skilled tax certiorari trial attorney, he has not only tried tax certiorari matters for private commercial properties but also represents several municipalities as tax counsel.

Before joining Van DeWater & Van DeWater, LLP, Mr. Barnett served in the felony bureau as Senior Assistant District Attorney in Dutchess County. Since then, Mr. Barnett has also served as a Special Prosecutor on vehicle and traffic matters, and for the Ulster County District Attorney's Office.

Mr. Barnett earned his Juris Doctor from Quinnipiac University School of Law, where he was a member of the Moot Court Honor Society, a finalist in the National Appellate Advocacy Competition, received a distinguished academic achievement award, and was awarded a financial scholarship from his law school for demonstrating excellent potential in the field of litigation. He is a past president of the Dutchess County Bar Association, a member of the Esopus Business Alliance, Ulster County Bar Association, Ulster County Regional Chamber of Commerce, and served on the Town Board for the Esopus as Councilman. Mr. Barnett also served as an adjunct professor at Marist College in the area of Civil Litigation and Administrative Law.

Represented clients include Towns of Poughkeepsie, Fishkill, LaGrange, Washington, Ulster, Kingston, Shandaken, the Cities of Kingston and Poughkeepsie, the Village of Millbrook and the Ulster County Legislature.

He is admitted to practice in the New York State Courts, Southern and Eastern Federal District Courts.

Danielle E. Strauch, Following graduation from Widener University School of Law (2011), Danielle commenced working for a small law office which focused on a wide range of services, including family and real estate law in Dutchess County, New York (2012-2015). She has an undergraduate degree from Franklin & Marshall (2008).

In July of 2015, Ms. Strauch opened her own office in Poughkeepsie, New York. She offered clients expertise on real estate law, family issues and a unique specialty area in equine issues, which mirrors her passion for that activity. In May 2016 she joined the law firm of Van DeWater & Van DeWater, LLP.

Ms. Strauch also sought to become deeply involved in the region's legal community. She is currently President of the Mid-Hudson Women's Bar Association and a member of the Women's Bar Association of New York, Dutchess County Bar Association and Westchester County Bar Association.

Ms. Strauch represents clients in real estate sale and purchase transactions, as well as civil litigation matters. With respect to family law, Danielle assists clients in resolving divorce litigation, custody disputes, separation agreements and prenuptial agreements.

Ms. Strauch has prosecuted matters on behalf of the Town of Poughkeepsie and the Town of LaGrange.

Janis M. Gomez Anderson, if of counsel with the firm, practices primarily in the areas of Litigation (Civil, Commercial and Trusts & Estates), Municipal Law, Land Use, Zoning and Planning and First Amendment. Prior to joining the firm, Ms. Gomez was an assistant district attorney in Manhattan for over three years. From 1997 to 1998, she was a law clerk to the Hon. Robert G. Doumar in the United States District Court, Eastern District of Virginia. Ms. Gomez received her J.D. from Emory University School of Law in 1997 where she was a Robert W. Woodruff Scholar and a member of the Order of the Coif. She

graduated cum laude from Yale University in 1990 with a B.A. in psychology.

Ms. Gomez is admitted to practice in New York State Courts and the U.S. District Courts for the Southern and Eastern Districts of New York. She is also a member of the New York State and Dutchess County Associations.

Ms. Gomez has provided legal representation to the Town of Kent, and its Planning Board, on numerous matters over a period of several years.

Van DeWater & Van DeWater maintains several other partners and associates with deep municipal law experience who will be available to the Town of Kent.

The firm maintains adequate and excellent support staff, legal research capabilities through digital and print means, and state of the art technology. Including partners, Van DeWater & Van DeWater has a staff of twenty-three (23) individuals; attorneys are listed on the letterhead.

The law firm has represented the following municipal entities or authorities during the last seven years:

Town of Kent (currently Planning Board and ZBA)
Town of LaGrange
Town of Poughkeepsie
Town of Fishkill
(currently Planning Board and Tax Review Proceedings)
Town of Marlborough
Town of Washington
City of Kingston (Tax Review Proceedings)
Town of Ulster (Tax Review Proceedings)
Town of Shandaken (Tax Review Proceedings)
Town of Putnam Valley (Tax Review Proceedings)
Town of Kingston (Tax Review Proceedings)
Village of Millbrook (representation ended during 2016)
Dutchess County Resource Recovery Agency
(representation ended 12/31/2016)
Dutchess Water and Wastewater Authority

Lawyers at the firm are available to meet with municipal officials on 24 hours notice.

Mr. Barnett has significant jury trial experience, including the last jury trial conducted during 2012.

Van DeWater & Van DeWater experiences no conflict of interests relative to current or future legal representation of Town of Kent agencies or officers.

Representative lists of matters litigated by Mr. Blass are as follows:

1. Matter of BBJ Assoc., LLC v. Zoning Bd. of Appeals of Town of Kent, 2007-07931, SUPREME COURT OF NEW YORK, APPELLATE DIVISION, SECOND DEPARTMENT, 65 A.D.3d 154; 881 N.Y.S.2d 496; 2009 N.Y. App. Div. LEXIS 5224; 2009 NY Slip Op 5332, June 23, 2009, Decided, As Corrected July 31, 2009.

OVERVIEW: Since an owner's proposed road was not a highway or a mapped street and was never approved by a town's planning board, it was subject to local zoning regulations of the Town of Kent

2. Matter of Fairview Fire District v. Town of Poughkeepsie, et al (decided SUPREME COURT, COUNTY OF DUTCHESS on March 9, 2016): Court granted motion of dismiss a fire district SEQRA attack on a Planning Board decision to approve a multi-family residential project.

3. Matter of H.V. Donuts v. Town of LaGrange (decided SUPREME COURT, COUNTY OF DUTCHESS on September 16, 2016): Court upheld an interpretive decision of the Zoning Board of Appeals on the questions of extinguishment of a non-conforming use.

4. Matter of Landstein v. Town of LaGrange (decided SUPREME COURT, COUNTY OF DUTCHESS on August 21, 2015): Court upheld the

TO
THE TOWN OF KENT

- With regard to Construction and Labor law we have been providing legal services and advice on a wide variety of issues and matters arising in the construction industry. Our clients include architects/engineers, owners, material suppliers, and specialty subcontractors, in both the public and private sectors. We are familiar with all aspects of the construction process contract

forms and requirements to the filing, bonding, and enforcement of Mechanics' Liens. Our experience in construction litigation is extensive, and includes contract and labor disputes, surety claims, lien foreclosure, and delay claims. Members of the firm are familiar with the requirement of ERISA and have appeared in proceedings before the NLRB.

Representing exclusively municipalities and school districts, we defend real property assessments on large utility, industrial, and commercial facilities. Through a unique involvement in the appraisal of power generating facilities, the firm has close ties with a network of nationally recognized utility appraisers and engineering experts. At the request of the New York State Bar Association, we co-authored the most recent update of the text of "Review and Reduction of Real Property Assessments in New York," and also submitted an *amicus curiae* brief on behalf of the New York State Association of Towns in *Niagara Mohawk Power Co. v. Town of Geddes*, 92, N.Y.2d 192 (1998). Our attorneys have made numerous presentations on this specialized area of practice to attorneys and appraisers.

5.4 Date of Inception: 6/26/86

5.5 **VERONICA A. McMILLAN** Member of the firm; Ms. McMillan has been practicing law in New York since 1999. Her practice includes commercial and healthcare law issues as well as tax certiorari and real property matters, including title insurance defense. Ms. McMillan is also an adjunct professor at Mount Saint Mary College lecturing in the areas of business and health law.

Practice Areas: Appellate Practice; Commercial Law; Construction Law and Litigation; Contracts; Real Property and Title Insurance Issues; Municipal Law; Tax Certiorari; Real Estate Transactions; Health Law.

Admitted: 1999, New York; 1999, New Jersey; 2006, U.S. District Court, Southern District of New York.

License: 2012, Registered Professional Nurse.

Educated: State University of New York at Binghamton (B.A. Political Science), 1995; Seton Hall University School of Law (J.D.), 1998; Mount Saint Mary College (B.S. Nursing), cum laude, 2011; Graduate Certificate, Seton Hall University School of Law (Health & Hospital Law, Compliance Issues for Healthcare Providers), 2013.

Professional Activities and Associations: American Bar Association (Member, Sections on Tort Trial & Insurance (Title Insurance Litigation Committee) and Healthcare Law); The American Association of Nurse Attorneys; New York State Bar Association (Member, Section on Construction Law); Women's Bar Association of the State of New York; Dutchess County Bar Association (Treasurer, 2014 – present; Assistant Treasurer, 2013-2014; Member, Judiciary Committee, 2008-2012); Orange County Bar Association; Mid-Hudson Women's Bar Association (President, 2007-2008; Vice-President, 2006-2007; Corresponding Secretary, 2005-2006; Sustaining Member, 2005-Present); New York Metropolitan Chapter of the American Association of Nurse Attorneys (Director, 2012-

Present; Member, 2012 – Present); American Cancer Society Relay for Life, Newburgh Event; Bardavon 1869 Opera House, Inc. (Board of Directors, 2011-Present); Poughkeepsie-Arlington Rotary (Member, 2013-Present); Town of New Windsor Lion's Club (Member, 2013 – present); Town of New Windsor 250th Anniversary Committee Member.

J. SCOTT GREER Member of the firm; Mr. Greer, who worked as a “hod carrier,” mason, and fork lift driver during his college days, has been representing the construction industry and business interests as an advisor and litigator for nearly 30 years.

Practice Areas: Trial and Appellate Litigation in State and Federal Court; Alternative Dispute Resolution before the American Arbitration Association and other ADR programs; Construction Law; Commercial Law; Corporate Law; Business Law.

Admitted: 1985, New York; 1986, U.S. Court of Appeals, Second Circuit; 1987, U.S. District Court, Southern, Eastern and Northern Districts of New York; 1991, U.S. District Court, Western District of New York; 1998, U.S. Court of Federal Claims; 2003, United States Supreme Court.

Educated: State University of New York at Albany (B.A.), Magna Cum Laude, 1981; Albany Law School of Union University (J.D.), 1984

Professional Activities and Associations: Super Lawyer Upstate New York, Construction Litigation, 2015 – present; American Arbitration Association National Roster of Neutrals for Construction and Commercial Disputes, 2007-present; Dutchess County Economic Development Corporation, Business Development Committee, 2014-present; Dutchess County Regional Chamber of Commerce, Co-Chair Employer Resource Committee, 2014-present; Marist College Red Fox Club, Board of Directors, 2014-present; Co-Author: “New York Mechanics’ Lien and Construction Claims,” Lorman Education Services, March 1998; Special Counsel to New York State Assemblyman Stephen Saland, Minority Leader Codes Committee, 1985-1990; Special Counsel to New York State Senator Stephen Saland, 1991-1992; Director, Family Services of Dutchess County, 1988-1993; Family Services, Inc., Advisory Council, 1993-2000; Director, Catharine Street Community Center, 2001-2007, 2008-2014 Member: Dutchess County Bar Association (Judicial Review Committee); New York State Bar Association (Member: Commercial and Federal Litigation Section, Executive Committee; Dispute Resolution Section); and American Bar Association (Member: Construction Industry Forum; Litigation Section; Tort, Trial & Insurance Practice Section; Associated Builders & Contractors, (Empire Chapter); New York State Association of General Building Contractor.

LOU LEWIS Founder and Senior Member of the firm; Mr. Lewis has practiced law in New York since 1969. He is the past president of the Dutchess County Bar Association and a former trustee of Marist College. He has lectured widely on tax certiorari issues, and is the author of “School Tax Refunds - The Not-So-Sleeping Giant,” Journal of the New York State School Board Association, March 1976; Contributing Author, of “Review and

Reduction of Real Property Assessment in New York,” update to Chapter Eight, “Special Valuation Problems” 1999; Contributing Author: Supplement to “Review and Reduction of Real Property Assessment in New York,” Third Edition, New York State Bar Association, 2000; Co-Author of “Municipalization of Electric Properties,” Talk of the Towns & Topics (July/Aug. 2002).

Practice Areas: Litigation; Tax Certiorari Law; Construction Law; Surety Law.

Admitted: 1969, New York; 1971, U.S. District Court, Southern and Eastern Districts of New York and U.S. Court of Appeals, Second Circuit; 1986, U.S. Supreme Court

Educated: Marist College (B.A.), cum laude, 1964; New York University (J.D.), 1968

Professional Activities and Associations: Confidential Law Clerk, Office of the Corporation Counsel, New York City, 1968-1969. Trustee, Marist College, 1971-1991. Commissioner, Poughkeepsie Historic Districts, 1974-1980. Hearing Officer, New York State Education Department, 1982-1994. Dutchess County (President, 1992-1993), New York State (Member, Tax Certiorari Law Section) and American (Member: Labor and Employment Law Section) Bar Associations; New York State Association of School Attorneys; President of The Jewish Federation of Dutchess County, 2012-2014; Baker Street Irregulars (Member), 1998-present.

JOAN QUINN Associate attorney with the firm; Ms. Quinn has been practicing law in New York since 2000, having returned to New York after practicing law in Massachusetts.

Practice Areas: Appellate Practice; Wills and Trusts; Title Insurance Defense; Landlord Tenant; Zoning; Contracts; Real Property; Commercial and Residential Real Estate Transactions; Tax Certiorari.

Admitted: 1996, Massachusetts; 1999, New York, 2001, U.S. District Court, Southern and Eastern Districts of New York.

Educated: State University of New York at Oneonta (B.S.), 1992; Suffolk University Law School (J.D.), cum laude, 1996.

Professional Activities and Associations: Dutchess County Bar Association, Mid-Hudson Women’s Bar Association, New York State Bar Association.

DYLAN C. HARRIS Associate attorney with the firm; Mr. Harris has worked in general practice since being admitted to the New York State bar with a focus on estate planning, as well as municipal law and tax law.

Practice Areas: Trusts and Estates, Tax Certiorari, Municipal Law, Business and Corporate Law.

Admitted: 2015, New York.

Educated: State University of New York at Oneonta (B.S.), Summa Cum Laude, 2010; Syracuse University College of Law (J.D.), 2014.

Professional Activities and Associations: New State Bar Association, Dutchess County Bar Association.

5.6 See 5.5 above

Veronica A. McMillan, Esq. – 45% of the work load – Veronica currently represents the Town of New Windsor Planning Board and is tax certiorari co-counsel for the Towns of Huntington and Moreau; former co-counsel to the Village of Wappingers Zoning Boards of Appeals.

J. Scott Greer, Esq. – 45% of the work load – currently Scott is labor and employment counsel for a variety of clients both municipal and private. He works with EFCO Products, Family Services, Inc. and The Mental Health Association of Dutchess County on various labor issues and was co-counsel to the Village of Wappingers Falls Zoning Board of Appeals.

Joan Quinn, Esq. – 10% of the work load – Joan works mostly behind the scenes for a variety of clients both municipal and private. She will be aiding and assisting in all areas of representation.

5.7 Lewis & Greer is a full service law firm which includes a full support staff, paralegals and associate and senior attorneys. We have full access to both print and online research and have in house appellate and litigation capabilities.

5.8 We currently have one full-time office manager, one part-time bookkeeper (3 full days a week) and two full-time paralegals.

5.9 Contracted for Westlaw Advanced online research, printed books for McKinney's, USCA, Carmody Waite

5.10 1 new server, 9 desktop computers, 1 laptop computer, 3 printers including a leased Ricoh Aficio MP 5002, 1 fax machine, 1 postage machine

5.11 Lewis & Greer requires 24 to 48 hours' notice for meeting with Town Personnel

5.12 No potential conflicts of interest are known at this time

- 5.13 Lewis & Greer has been in practice since 1986 and therefore have has too extensive a litigation practice to list (see Reported Cases including dates attached hereto) We have an ongoing litigation practice acting as tax certiorari litigation counsel for the Towns of Huntington and Moreau. We have formerly represented the Shoreham Wading River Central School District, the Town of Corinth and the City of Plattsburgh with their municipal litigation needs. We have also represented and continue to represent several private clients with various labor issues such as collective bargaining agreements.
- 5.14 Lewis & Greer has over 40 years of experience in municipal law matters such as planning and zoning board issues. We currently represent the Town of New Windsor Planning Board (since January of 2015) and have represented the Village of Wappingers Falls Zoning Board of Appeals (2002 - 2014). We have also have represented and continue to represent several private clients with various employment issues such as collective bargaining agreements and labor disputes - Family Services, Inc. (1996 to present), EFCO Products, Inc. (July 2012 to present).
- 5.15 Not applicable
- 5.16 J. Scott Greer appeared as second chair in *HBE Leasing Corp. v. Frank* (approx. 1989) which last 6 months; he was lead counsel in *IBM Corp. v. Camp Dresser and McKee* (approx. 1992) which lasted 6 weeks and settled before closing arguments.
- 5.17 Town of Huntington
Town of New Windsor Planning Department
Town of Moreau
Town of Ramapo
- 5.18 Town of Huntington
Town of New Windsor Planning Department
Town of Moreau
Town of Ramapo
Town of Corinth
City of Plattsburgh
Village of Wappingers Falls Zoning Board of Appeals
- 5.19 J. Scott Greer, Esq has been named by Super Lawyers as a top rated construction litigation attorney in upstate New York for the second year in a row. This honor is given to those professionals that exhibit excellence in the practice of law, and is based on peer nominations, independent research, and peer evaluations by a panel of highly credentialed attorneys.

In addition to practicing in the state and federal court systems, Mr. Greer has extensive arbitration and mediation experience, serves on the American Arbitration Association National Roster of Neutrals for Construction and Commercial Disputes, and has received over forty hours

9.5 travel, mileage, hotel, meals, experts

Town of Kent Planning Board
25 Sybil's Crossing
Tel: 845-225-7802

email: planningkent@townofkentny.gov
Kent, NY 10512
Fax: 845-306-5283

Memorandum

DATE: December 10, 2016
TO: Supervisor Fleming
CC:
FROM: Michael McDermott and the Kent Planning Board
RE: Appointments/Reappointments for 2017 for the Kent Planning Board

Dear Supervisor Fleming:

The Kent Planning Board adjourned into executive session during the December 1, 2016, workshop to discuss recommendations to the Town Board for 2017 appointments/reappointments to the Kent Planning Board. Following are our recommendations, which we hope the Town Board will approve at its January organizational meeting.

The following motions were made and carried unanimously.

1. The recommendation was made to ask the Town Board to reappoint Mike McDermott as Planning Board Chairman for the calendar year 2017. His term on the Planning Board ends in 2019.
2. The recommendation was made to ask the Town Board to reappoint Dennis Lowes as Planning Board Vice Chairman for the calendar year 2017. His term expires in 2017.
3. The recommendation was made to ask the Town Board to reappoint Gary Lam as a Planning Board Member. His term began in April of 2016 (he replaced Glenna Wright) and ends December 31, 2022.
4. The recommendation was made to ask the Town Board to reappoint Vera Patterson as Planning Board Secretary at a salary as appropriated in the 2017 Adopted Town Budget.
5. The recommendation was made to ask the Town Board to reappoint Bruce Barber, of Cornerstone Appraisals, Inc., as Planning Board Environmental Consultant for calendar year 2017 at the terms appropriated in the contractual line of the 2017 Adopted Town Budget.
6. The recommendation was made to ask the Town Board to reappoint Julie Mangarillo, of Rohde, Soyka & Andrews Consulting Engineers, P.C., as Planning Board Engineer for calendar year 2017 at the terms appropriated in the contractual line of the 2017 Adopted Town Budget.
7. The recommendation was made to ask the Town Board to reappoint Neil Wilson, of Land Resource Consultants, Inc., as Planning Board Planner for calendar year 2017 at the terms appropriated in the contractual line of the 2017 Adopted Town Budget.
8. The recommendation was made to ask the Town Board to reappoint Ronald Blass, Esq., of Van DeWater & Van DeWater, LLP, as Planning Board Attorney for calendar year 2017 at the terms appropriated in the contractual line of the 2017 Adopted Town Budget.

Subject: Town of Kent - Planning Board Legal Services

Date: Friday, March 10, 2017 at 2:35:07 PM Eastern Standard Time

From: Lori Mithen-DeMasi

To: Maureen Fleming

Dear Supervisor Fleming,

This email is in response to your inquiry regarding the authority of the planning board to hire an attorney. Town Law, §271(2) provides that “[t]he planning board shall have the power and authority to employ experts, clerks and a secretary and to pay for their services, and to provide for such other expenses as may be necessary and proper, not exceeding in all the appropriation that may be made therefor by the town board for such planning board.” The State Comptroller’s Office has opined that this authority includes the authority to hire an attorney subject to town board appropriation (Op. St. Compt. No. 74-451).

I hope this information is helpful to you. If we can be of assistance to you in the future, please do not hesitate to call or write.

Lori

Lori Mithen-DeMasi
Counsel
Association of Towns of the State of New York
150 State Street - Albany NY 12207
Phone: (518) 465-7933
Fax: (518) 465-0724
Email: lmithen@nytowns.org

Be sure to follow us on Twitter! Follow @nytowns for all the latest information from the Association of Towns.

Please be advised that the information in this e-mail is provided for informational purposes only. Neither this communication, nor any other communication with the Association of Towns of the State of New York (AOTSNY), creates an attorney-client relationship between AOTSNY or its attorneys and you or your town or any third party. Once received by a town official, this communication may be considered a record for purposes of the State MU1 record retention schedule and the Freedom of Information Law. We recommend that local counsel be consulted to address the particular needs of your town.

TOWN OF KENT
PLANNING BOARD
25 Sybil's Crossing
Kent Lakes, NY 10512

Tel: (845) 225-7802

planningkent@townofkentny.gov

Fax: (845) 306-5283



March 27, 2017

Town of Kent
25 Sybil's Crossing
Kent, NY 10512

Attn: Maureen Fleming, Supervisor
Scott Chin
Paul Denbaum

William Huestis, Deputy Supervisor
Jamie McGlasson

Dear Supervisor Fleming and Members of the Kent Town Board:

I am writing on behalf of the Town of Kent Planning Board to inform you that we believe the Town Board acted outside its authority when it appointed the firm of Lewis & Greer, the former employer of a current Town Board member, as the Planning Board attorney at its meeting of March 21, 2017. The Planning Board, with guidance from counsel at the Association of Towns of the State of New York, engaged in a protracted discussion with the Town Board on this matter in 2014. As a result of that discussion, the Planning Board continued to choose its own attorney, as is clearly its right under the law. Below is some relevant content from a letter sent by the Planning Board to the Town Board at that time. I have also attached a copy of the Opinion of the State Comptroller it references:

During a discussion with Planning Board Vice Chair Janis Bolbrock at your meeting on May 6, 2014, a Town Board member stated he could find no case law indicating that a Planning Board attorney is considered an expert within the context of NYS Town Law. However, Katie Hodgdon, Associate Counsel for the Association of Towns of the State of New York, has informed me via a telephone conversation and an email dated 5/7/2014 that "an attorney is an expert and a planning board may retain its own attorney."

Ms. Hodgdon refers to Opinion 74-451 in "Opinions of the State Comptroller." The opinion was issued in response to the following inquiry:

"May a town planning board hire its own 'experts,' such as an attorney, an engineer or a professional planner, and may it refuse the services of similar experts employed by the town board?"

Among the relevant portions of the opinion issued in response are:

"This Department has expressed the view that an attorney is an 'expert' within the meaning of the term as used in Section 272 (since changed to 271 in the current version of NYS Town Law) and that the Planning Board could therefore retain its own counsel to perform such legal services as might be needed by it, notwithstanding the fact that the office of town attorney also existed. We further stated that the town board could not force the services of the town attorney or any other attorney upon the planning board."

"A town planning board may hire its own 'experts,' such as an attorney, an engineer or a professional planner, and it may refuse the services of similar experts employed by the town board."

The Planning Board made clear to the Town Board its intention to continue using Ron Blass at the firm of Van DeWater & VanDeWater as the Planning Board's attorney of record earlier this year. We subsequently affirmed that decision in emails sent to the Town Supervisor and Town Board Member Scott Chin, the Planning Board liaison. Not only is Ron Blass one of the most experienced and highly respected land use, SEQRA, and zoning law attorneys in the Hudson Valley, the hourly rate quoted by Van DeWater & Van DeWater in its bid was lower than that quoted by Town Board Member Paul Denbaum's former employer, Lewis & Greer.

In light of all the above information, please be advised that the Planning Board intends to continue using its legal counsel of choice, Ron Blass of Van DeWater & Van DeWater, for any legal services it may require through the rest of 2017.

Respectfully,



Michael McDermott, Chairman
Town of Kent Planning Board

MM/vlp

cc: Bob Rogers, Chairman ZBA
Bob Bradley, Vice Chairman ZBA
Dan Clayton
Nina Gerosa
Bob Phillips
Kent Planning Board Members
Lana Cappelli, Town Clerk

(2) May a village disconnect any water user outside the village for nonpayment of water rents?

Statement of Law: (1) This Department has expressed the opinion that a village may designate an official newspaper published outside the village provided the designated paper is circulated in the village. The newspaper must be generally circulated within the village to satisfy due process requirements with respect to affording persons proper notice of official matters which may affect them or their property.

We point out that if the board of trustees intends to designate an official newspaper in the future, it must do so by local law in accordance with Municipal Home Rule Law §20. This is so because former Village Law §89(8), which gave the board of trustees the authority to designate an official newspaper, was not carried over into the present Village Law. Thus, the village board must enact a local law designating the newspaper in question as the official village newspaper.

(2) The sale of water to an individual outside the village pursuant to Village Law §11-1120 is a personal contract for the sale of water and services. Each private user expressly or impliedly agrees to abide by the regulations promulgated by the village in regard to the use of water.

Such regulations may include the imposition of penalties for late payment and provisions for the shutting off of water in the event of failure to pay water bills (26 Op St Compt 272 (1970); Vill L §11-1116).

Conclusions: (1) A village may by local law designate an official newspaper published outside the village provided the designated paper is circulated in the village.

(2) A village may enforce collection of water rents from users outside the village by the shutting off of water.

May 20, 1974.

OPINION 74-450

Inquiry: May a village board of trustees abolish an existing planning board and thereafter appoint another one composed of new members?

Statement of Law: Village Law §7-718 authorizes a village board of trustees to appoint a planning board. The appointment of a planning board is permissive rather than mandatory and such board may be abolished at any time by the board of trustees (Vill L §3-310). If the board is abolished, its statutory duties may be performed by the board of trustees (*Matter of Russell Oaks, Inc., v. Planning Bd. of Inc. Village of Russell Gardens et al.*, 28

AD2d 569, 280 NYS2d 436, aff'd 21 NY2d 784, 288 NYS2d 477, 235 NE2d 450, rearg den 22 NY2d 877, 293 NYS2d 337, 239 NE2d 920 (1969).

The good-faith abolition of a planning board is not the same as the abolition thereof for the purpose of removing the present members from office and appointing new ones. Planning board members are appointed for terms of five years and can be removed by the board of trustees *only for cause and after a public hearing* (Vill L §7-718). They cannot be removed in circumvention of the aforesaid statutory mandate by simply abolishing the board. As was said by the court in *Matter of Seiffert et al. v. Town of Clarkstown et al.* (23 AD2d 795, 259 NYS2d 202 (1965), mot for lv to app den 16 NY2d 485):

By abolishing the then existing planning board and immediately appointing a new planning board with different members, the Town Board in effect removed petitioners from office without cause and without public hearing in contravention of section 271 of the Town Law. [See also 1971 Op Atty Gen 151 (informal)]

The quoted case involved a town planning board, but the same principle would apply in the case of a village planning board.

The letter of inquiry also asks whether the planning board members *must* resign if their resignation is requested by the mayor or board of trustees. A public officer may resign his office at any time in the manner provided by law. If he is appointed for a specific term of office, he is entitled to serve out his term unless duly removed or unless the office is abolished (in good faith). Accordingly, the planning board members are under no compulsion to resign if requested to do so by the village mayor or board of trustees.

Conclusion: A village planning board cannot be abolished for the purpose of appointing another one composed of new members.

April 24, 1974.

OPINION 74-451

Inquiry: May a town planning board hire its own "experts," such as an attorney, an engineer or a professional planner, and may it refuse the services of similar experts employed by the town board?

Statement of Law: Town Law §272 provides, in pertinent part:

The planning board shall have power and authority to employ experts, clerks and a secretary, and to pay for their services and such other expenses as may be necessary and proper, not exceeding in all the appropriation that may be made therefor by the town board for such planning board.

This Department has expressed the view that an attorney is an "expert" within the meaning of the term as used in § 272 and that the planning board could therefore retain its own counsel to perform such legal services as might be needed by it notwithstanding the fact that the office of town attorney also existed (24 Op St Compt 109, 226 (1968)). We further stated (24 Op St Compt 224 *supra*) that the town board could not force the services of the town attorney or any other attorney upon the planning board.

The same reasoning is applicable to the services of an engineer or a professional planner, since we consider that they, too, fall within the category of "experts." Consequently, the planning board may hire such experts as it considers necessary (within the limits of the planning board appropriation, of course), and it may refuse to accept the services of any experts who may have been appointed by the town board (such as the town attorney, the town engineer or a town "planner").

Insofar as a town "planner" is concerned, we believe the town board could create such a position under the authority of Town Law § 20(1), even though the planning board is also in existence. There could be a valid reason for such a position where, for example, there did not exist a harmonious relationship between the two boards and the town board wished to receive additional professional advice with respect to the planning board's actions.

Conclusion: A town planning board may hire its own "experts", such as an attorney, an engineer or a professional planner, and it may refuse the services of similar experts employed by the town board.

April 19, 1974.

OPINION 74-461

Inquiry: May a collective bargaining agreement between a town and the Civil Service Employees' Association provide for the town to make payroll deductions for payment of premiums for employees participating in CSEA homeowners and automobile insurance programs?

Statement of Law: General Municipal Law Article 5 contains provisions authorizing municipalities to make payroll deductions in certain specified situations. There is no specific statutory authority for the type of deduction mentioned in the inquiry.

However, the recent decision of the New York State Court of Appeals has greatly changed prior law by holding that under the Taylor Law collective bargaining as to the terms and conditions of employment could cover those things not specifically prohibited by the provisions of other laws (*Bd. of Educ. of Union Free Sch. Dist. v. State*). *Teachers of*

Subject: Re: Kent Planning Board Attorney 2017

Date: Monday, March 27, 2017 at 4:31:00 PM Eastern Daylight Time

From: Bob Rogers

To: Maureen Fleming, Bill Huestis, Jaime McGlasson, Scott Chin, Paul Denbaum

CC: bestscapes@verizon.net, Planning Kent, Lana Cappelli, Building Inspector, barberbruce@yahoo.com, Csisto4004@comcast.net, dmlls@verizon.net, Edituhmike, Glam0809@gmail.com, Bluehog90@verizon.net, Julie Mangarillo - RSA, Nwilson.lrcplanning@gmail.com, Bradre@bestweb.net, BobPhillippsgr@yahoo.com, Dan Clayton, Nina Gerosa

Category: Kent Residents

Dear Supervisor Fleming and Town Board,

It was with great dismay and disappointment that we learned of the decision of the Town Board not to renew the contract for legal services with Ron Blass.

I have been chair of the ZBA for close to 25 years, and for a significant portion of that Ron has been providing this board with most excellent legal council. In the years I have been on the board we have never lost a case that was brought against us. In significant, measure I attribute that to Ron's legal skill, knowledge and expertise.

As you know, the ZBA is a citizen's board comprised of laymen from the community. As such we rely on the expertise of the professionals the town board hires to support us. To the extent that over the years Ron Blass has been a reliable, responsive and consistent source of top-notch legal guidance, he has been an integral part of that process.

Unlike the Planning Board, the ZBA does not have the right to hire its own professionals, and so I would respectfully request that the Town Board reconsider its decision, rehire Ron Blass as legal council for the ZBA, and allow us to continue to provide the Town and it citizens with the best service we are able to offer.

Sincerely,
Bob Rogers

Town of Kent Planning Board
25 Sybil's Crossing
Tel: 845-225-7802

9
email: planningkent@townofkentny.gov
Kent, NY 10512
Fax: 845-306-5283

RESOLUTION #6
2017

Date: March 28, 2017

From: The Kent Planning Board

To: The Kent Town Board
Maureen Fleming, Supervisor - w/Att.
Scott Chin
Paul Denbaum
Bill Huestis
Jaimie McGlasson

CC: W. Walters, Building Inspector – w/Att. J. Ramos – w/Att.
L. Cappelli, Town Clerk – w/Att. Finance Dept. – w/Att

Re: Request to Accept an Erosion Control Performance Bond from:
Jason Kinash
71 Cottage Road
Kent, NY 10512
TM: 33.42-2-49-51

:
Resolved: On October 13, 2016 the Town of Kent Planning Board recommended that an Erosion Control Bond in the amount of \$1,700.00 and an inspection fee of \$1,000.00 be approved and accepted by the Kent Town Board. The motion was made by Mr. Philip Tolmach and seconded by Mr. Dennis Lowes. The votes were as follows:


Michael McDermott, Chairman	-	<u>Aye</u>
Mr. Dennis Lowes, Vice Chairman	-	<u>Aye</u>
Mr. George Brunner	-	<u>Aye</u>
Mr. Gary Lam	-	<u>Aye</u>
Mr. Charles Sisto	-	<u>Aye</u>
Mr. Phillip Tolmach	-	<u>Aye</u>

The motion carried.

The Planning Board respectfully asks that, if the Town Board is in agreement, they pass a resolution decreeing that the above actions be taken.

I, Vera Patterson, Planning Board Secretary of the town of Kent, County of Putnam, State of New York, do hereby certify that the foregoing is a true excerpt from the minutes of a meeting of the Planning Board of the Town of Kent held on October 13, 2016.

Dated: March 28, 2017


Vera Patterson
Planning Board Secretary

Town of Kent Planning Board
25 Sybil's Crossing
Tel: 845-225-7802

email: planningkent@townofkentny.gov
Kent, NY 10512
Fax: 845-306-5283

RESOLUTION #4
2017

Date: March 28, 2017

From: The Kent Planning Board

To: The Kent Town Board
Maureen Fleming, Supervisor - w/Att.
Scott Chin
Paul Denbaum
Bill Huestis
Jaimie McGlasson

CC: W. Walters, Building Inspector – w/Att. J. Ramos – w/Att.
L. Cappelli, Town Clerk – w/Att. Finance Dept. – w/Att

Re: Request to Accept an Erosion Control Performance Bond from:
Britt Connolly
8 Grasslands Road
Kent, NY 10512
TM: 33.73-1-53, 54

:

Resolved: On March 9, 2017 the Town of Kent Planning Board recommended that an Erosion Control Bond in the amount of \$4, 082.00 and an inspection fee of \$1,000.00 be approved and accepted by the Kent Town Board, Public Hearing be waived and that this project be moved to the Planning Board's administrative track. The motion was made by Mr. George Brunner and seconded by Mr. Philip Tolmach. The votes were as follows:

Michael McDermott, Chairman	-	<u>Aye</u>
Mr. Dennis Lowes, Vice Chairman	-	<u>Absent</u>
Mr. George Brunner	-	<u>Aye</u>
Mr. Gary Lam	-	<u>Aye</u>
Mr. Charles Sisto	-	<u>Aye</u>
Mr. Phillip Tolmach	-	<u>Aye</u>

The motion carried.

The Planning Board respectfully asks that, if the Town Board is in agreement, they pass a resolution decreeing that the above actions be taken.

I, Vera Patterson, Planning Board Secretary of the town of Kent, County of Putnam, State of New York, do hereby certify that the foregoing is a true excerpt from the minutes of a meeting of the Planning Board of the Town of Kent held on March 9, 2017.

Dated: March 9, 2017



Vera Patterson
Planning Board Secretary

Town of Kent
25 Sybil's Crossing
Kent Lakes NY 10512

Application #: 33.18-1-14

OPERATING PERMIT APPLICATION FORM

Page 1 of 4

Part I Applicant/Building Information

Applicant's Name: Lakeview Community Church
Applicant's Address: 387 Rt. 52, Carmel, NY
Contact Person: Angela Day Telephone: 845-490-7905
Address of Premises for which Operating Permit is requested: ☒ same as above
☐ Other (specify): _____
Tax Map Number: 33.18-1-14 Current Occupancy Class: E, A

Part II Type Operating Permit

An Operating Permit is required to conduct any activity or to use any class of building listed below. Please indicate the type(s) of Operating Permit(s) requested by checking each applicable box. (If you require assistance, or would like more information, contact the Town of Kent Building Department at 845-225-3900.)

- ☐ Manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Tables 2703.1.1(1), 2703.1.1(2), 2703.1.1(3) or 2703.1.1(4), of the Fire Code of New York State (see 19 NYCRR Part 1225); (See Appendix A.) Identify the materials and quantities and describe the manner in which the materials will be manufactured, stored or handled (attach additional sheets if necessary):

- ☐ Conducting a hazardous process or activity (including but not limited to, any commercial or industrial operation which produces combustible dust as a byproduct, fruit and crop ripening, and waste handling; (See Appendix B.) Describe the process(es) or activity(ies) to be conducted (attach additional sheets if necessary):

- ☐ Use of pyrotechnic devices in assembly occupancies; (See Appendix C.) Describe the proposed use (attach additional sheets if necessary):

- ☐ Use of a building containing one or more areas of public assembly with an occupant load of 100 persons or more (See Appendix D.) Describe the proposed use (attach additional sheets if necessary):

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Application #: 33.18-1-14

OPERATING PERMIT APPLICATION FORM

Part II (continued)
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- ☒ Temporary Sales Events (attach a plan drawn to scale showing the general location of the building and / or lot where the temporary sales event is) Community Tag Sale on Sat.
5/13/17 with rain date on 5/20/17 if needed.
- ☐ Use of a building whose use or occupancy classification has been determined by Town of Kent Building Department as posing a substantial potential hazard to public safety. (See Appendix E.) Describe the proposed use (attach additional sheets if necessary):

**Part III
Premises/Building Information**

1. Date of last Inspection of Premises? 10-26-16
2. Has a Certificate of Occupancy been issued for the premises?
☐ YES Type: ☐ Permanent ☐ Temporary Date of Issuance: NA
☐ NO
3. Date(s) of issuance of previous Certificate(s) of Occupancy? (if any): NA
4. Are there currently any open Building Permits associated with the premises?
If yes, please describe (attach additional sheets if necessary): ☐ YES ☒ NO
5. Have any violations to the Uniform Code been issued in relation to the Premises?
If yes, please describe (attach additional sheets if necessary): ☐ YES ☒ NO
6. Have any variances to the Uniform Fire Prevention and Building Code been granted in relation to these premises?
☐ YES ☒ NO If yes please describe (attach additional sheets if necessary): (Include Variance Decision Number)

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OPERATING PERMIT APPLICATION FORM

Part III (continued)

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7. Additional Comments:

Please consider waiving the application fee for this event. The primary purpose is to add value to the community, and fees charged are primarily used to fund future community events.

SIGNATURE OF APPLICANT

I hereby certify that the foregoing information (and all information in attached sheets, if any) is true and complete.

[Signature] 3/14/17
Signature of Applicant or Authorized Representative's Signature Date

Angela Day, Church Administrator
Name (and Title, if applicable of person signing Application (Please print))

Part IV

To be completed by Town of Kent Building and or Fire Inspector

Inspection Required ☒ YES ☐ NO

Inspections Performed ☒ YES ☐ NO Date of Inspection: 3-21-17

Tests or Reports required verifying compliance? ☐ YES ☒ NO

If YES, have Tests or Reports been received? ☐ YES ☒ NO

Description: N/A

Application(s) Approved: ☒ YES ☐ NO

Operating Permit Issued By: NICHOLAS J. CECERE - FIRE INSPECTOR.

Date Operating Permit Issued: 5/13/17 (5/24/17) Date Operating Permit Expires: 5/14/17 (5/24/17)

Type/Description of Operating Permit: TEMPORARY TAG SALE

Conditions of Operating Permit (list conditions here AND in the space provided in the Operating Permit):

NONE

Additional Comments: N/A



Town of Kent Building Department OPERATING PERMIT

This Operating Permit must be displayed at Premises

Application #: 33.18-1-14

Application's Name: Lakeview Community Church

Applicant's Address: 387 Route 52- Kent Lakes, NY 10512

Contact Person: Angela Day

Telephone: 845-490-7905

Address of Premises for which Operating Permit is requested: ☒ same as above ☒ other (specify):

Date of Issuance: May 13, 2017 (Rain Date 5-20-17)

Expiration: May 14, 2017 (Rain Date 5-21-17)

This Operating Permit is issued to the Applicant named above to conduct the activity (ies) and/or to use the class (es) of buildings indicated below at the Premises specified above:

- ☐ Cutting & Welding Operations – International Fire Code - 3501.2
- ☐ Manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Tables 5003.1.1(1), 5003.1.1(2), 5003.1.1(3) or 5003.1.1(4), of the International Fire Code (see 19 NYCRR Part 1225); as described in the Application.
- ☐ Conducting a hazardous process or activity; as described in the International Fire Code.104.1 & 2301.1
- ☐ Use of pyrotechnic devices in assembly occupancies; as described in the Application
- ☐ Use of a building containing one or more areas of public assembly with an occupant load of 100 persons or more; as described in the Application.
- ☒ Use of a building whose use or occupancy classification has been determined by *Town of Kent Building Department* as posing a substantial potential hazard to public safety; as described in the Application. (TAG SALE)

The conditions, surroundings and arrangements for the activity(ies) and/or use(es) subject to this Operating Permit shall be

in accordance with all applicable laws, ordinances, regulations and the conditions (if any) mentioned below. The Premises shall be subject to periodic inspection by *Town of Kent Building Department* to ensure compliance with all applicable laws, ordinances, regulations and conditions. The Operating Permit is subject to revocation for failure to comply with any applicable law, ordinance, regulation or condition. This Operating Permit shall expire on the earlier of the Expiration Date specified above or on the date of revocation pursuant to the preceding sentence. CONDITIONS (continue on attached sheets, if necessary):

TOWN OF KENT BUILDING DEPARTMENT

By: Nicholas J. Cecere
Nicholas J Cecere, Fire Inspector